

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 20-cr-1155 KG

ALEJANDRA ARIAS,

Defendant.

ORDER

This matter is before the Court on defense attorney Brock Benjamin’s Unopposed Motion to Withdraw (Doc. 43) and other matters.

Defendant Alejandra Arias filed a *pro se* Motion to Reduce Sentence pursuant to 18 U.S.C. § 3582 on August 22, 2022. (Doc. 33). In the Motion, she requested appointment of counsel. *Id.* at 6, § V. On October 18, 2022, the Court appointed Mr. Benjamin from the CJA panel. (Doc. 37). Since that appointment, Mr. Benjamin neither filed an amended Motion to Reduce Sentence nor stated an intention to stand on the original *pro se* Motion by the deadline set by this Court. Instead, Mr. Benjamin filed the instant Motion to Withdraw.

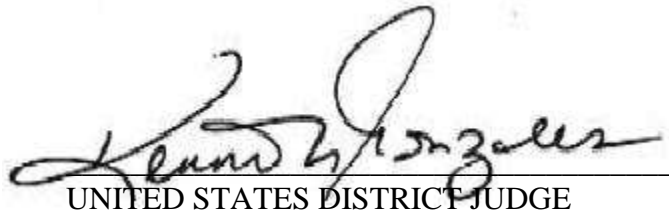
In that Motion and at a status conference conducted December 20, 2022, Mr. Benjamin described certain communication break downs with his client and barriers to obtaining medical evidence to support the Motion to Reduce Sentence. *Generally* (Doc. 43). Mr. Benjamin further motioned the Court to have the Motion “non-suited without prejudice” so that Ms. Arias could re-file the Motion “once she is in a position to timely muster all of her evidence.” *Id.* at 2.

The Court is not persuaded it should grant a withdrawal of the original Motion without Ms. Arias’ affirmative consent. At the status conference, Mr. Benjamin alternatively

recommended denying the Motion to Reduce Sentence without prejudice. Given the reported issues obtaining necessary evidence, the Court agrees that denial without prejudice to refile when better prepared is an efficient and just course of action. Ms. Arias may refile a similar motion at any time. The Court's consideration of any such motion will be aided by the inclusion of medical evidence which corroborates Ms. Arias' request for compassion on health grounds, and, if necessary, her execution of a HIPAA waiver so that any appointed counsel may review those records.

The Court hereby denies the original Motion to Reduce Sentence (Doc. 33) but agrees with Mr. Benjamin that the denial be without prejudice, thereby allowing Ms. Arias the opportunity to refile her motion with supporting documentation. The Court, furthermore, grants Mr. Benjamin's Motion to Withdraw as counsel (Doc. 43). For the purpose of continuity, the Court will consider re-appointing him at the time Ms. Arias refiles her Motion to Reduce Sentence. Mr. Benjamin is ordered to provide to his client a copy of this Order and the Government's prior Response (Doc. 36), if not already provided. Mr. Benjamin's withdrawal will become effective upon Ms. Arias' receipt of both.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE